

## **Pezzi, Stephen (CIV)**

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**From:** Araceli Martínez-Olguín <martinez-olguin@nilc.org>  
**Sent:** Friday, December 04, 2020 1:10 PM  
**To:** Pezzi, Stephen (CIV); Colangelo, Matthew; 'Muneer Ahmad'  
**Cc:** Khan, Sania; Wardenski, Joseph; Finkelstein, Alex; Dasgupta, Anisha; batallavidal\_Iso@mailman.yale.edu; Parker, Joshua; 'Jessica Young'; Mayra Joachin; Trudy Rebert; Thorp, Galen (CIV); Westmoreland, Rachael (CIV); Marutollo, Joseph (USANYE); Rosenberg, Brad (CIV); karen.tumlin@justiceactioncenter.org; Batalla; batalla@maketheroadny.org  
**Subject:** RE: EDNY DACA - Meet and confer; request for consent to file reply brief

Stephen and counsel,

We appreciate you sharing that update about converting expanding 1 year DACA/EADs to 2 years, and are heartened to learn that you might be in a position to get the needed approvals for these proposals as early as next week. Plaintiffs would be in a position to agree to publication on the USCIS and DHS websites regarding the conversion of 1 year DACA and EAD grants to 2 years by COB Monday. With respect to individualized mailed notices within 30 days, that also seems promising. Plaintiffs continue to need mailed individual EADs with the correct expiration date. Do you have a proposal on how soon those could be completed?

We're happy to continue discussing this and wonder if you might have some time later today to make sure we understand what the agency is prepared to do, and on what timeline. If and when we can reach agreement on these proposals we could submit a notice to the court.

Cheers,  
Araceli

*Araceli Martínez-Olguín | Supervising Attorney*  
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**From:** Pezzi, Stephen (CIV) <Stephen.Pezzi@usdoj.gov>  
**Sent:** Friday, December 4, 2020 8:32 AM  
**To:** Colangelo, Matthew <Matthew.Colangelo@ag.ny.gov>; 'Muneer Ahmad' <muneer.ahmad@ylsclinics.org>  
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**Subject:** RE: EDNY DACA - Meet and confer; request for consent to file reply brief

Counsel,

On the issue of extending 1-year DACA/EADs to 2 years, we do have an update to offer. After further conversations within DOJ, DHS, and USCIS, we are optimistic that, as early as next week, we could be in a position to agree to something like the following:

- Immediate notice on DHS and USCIS websites about the Court's order and a forthcoming extension of all 1-year DACA/EADs to 2 years, as early as COB Monday.
- Within 30 days, individualized paper notice to class members that deferred action has been extended from 1 years to 2 years.
- Within 30 days, individualized paper notice to class members that existing 1-year EADs have now been extended by DHS/USCIS to two years. These could be presented to an employer as definitive evidence of the extension of the validity period of the EADs. These notices would be specific to each individual, and also specifically note that they are to be accepted for I-9 verification, for example.
- This would all be accomplished a letter, on government letterhead, with secured features.

Happy to answer any questions you have about the 1-year vs. 2-year extension issues raised above, as well as some of the potential downsides of the Federal Register notice approach. In short, it now seems likely that an extension of 1-year EADs to 2-year EADs can be accomplished as quickly (or more quickly) as a Federal Register notice, and our understanding is that Plaintiffs' ultimate goal here is the extension of those EADs as quickly as possible.

On the other issues, I am disappointed to hear that Plaintiffs have no further proposals to share (e.g., on the unlawful presence issue), as our conversation yesterday evening led me to believe that further discussion might be fruitful. Please let me know if anything changes (including after your filing), such that you think additional conversation on those issues might be worth pursuing. Either way, I look forward to hearing your thoughts on the proposal above (which, to be clear, would still require additional sign-off within DOJ and DHS before we could reach a definitive agreement).

Best,

**Stephen M. Pezzi**

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**From:** Colangelo, Matthew <[Matthew.Colangelo@ag.ny.gov](mailto:Matthew.Colangelo@ag.ny.gov)>

**Sent:** Friday, December 04, 2020 11:19 AM

**To:** Pezzi, Stephen (CIV) <[spezzi@CIV.USDOJ.GOV](mailto:spezzi@CIV.USDOJ.GOV)>; 'Muneer Ahmad' <[muneer.ahmad@ylsclinics.org](mailto:muneer.ahmad@ylsclinics.org)>

**Cc:** Khan, Sania <[Sania.Khan@ag.ny.gov](mailto:Sania.Khan@ag.ny.gov)>; Wardenski, Joseph <[Joseph.Wardenski@ag.ny.gov](mailto:Joseph.Wardenski@ag.ny.gov)>; Finkelstein, Alex <[Alex.Finkelstein@ag.ny.gov](mailto:Alex.Finkelstein@ag.ny.gov)>; Dasgupta, Anisha <[Anisha.Dasgupta@ag.ny.gov](mailto:Anisha.Dasgupta@ag.ny.gov)>; 'batallavidal\_Iso@mailman.yale.edu' <[batallavidal\\_Iso@mailman.yale.edu](mailto:batallavidal_Iso@mailman.yale.edu)>; Parker, Joshua <[Joshua.Parker@ag.ny.gov](mailto:Joshua.Parker@ag.ny.gov)>; 'Jessica Young' <[jessica.young@maketheroadny.org](mailto:jessica.young@maketheroadny.org)>; 'Mayra Joachin' <[Joachin@nilc.org](mailto:Joachin@nilc.org)>; 'Araceli Martínez-Olguín' <[martinez-olguin@nilc.org](mailto:martinez-olguin@nilc.org)>; 'Trudy Rebert' <[rebert@nilc.org](mailto:rebert@nilc.org)>; Thorp, Galen (CIV) <[GThorp@civ.usdoj.gov](mailto:GThorp@civ.usdoj.gov)>; Westmoreland, Rachael (CIV) <[rwestmor@CIV.USDOJ.GOV](mailto:rwestmor@CIV.USDOJ.GOV)>; Marutollo, Joseph (USANYE) <[JMarutollo@usa.doj.gov](mailto:JMarutollo@usa.doj.gov)>; Rosenberg, Brad (CIV) <[BRosenbe@civ.usdoj.gov](mailto:BRosenbe@civ.usdoj.gov)>; 'Karen Tumlin' <[karen.tumlin@justiceactioncenter.org](mailto:karen.tumlin@justiceactioncenter.org)>; 'Batalla' <[Batalla@nilc.org](mailto:Batalla@nilc.org)>; 'batalla@maketheroadny.org' <[batalla@maketheroadny.org](mailto:batalla@maketheroadny.org)>

**Subject:** RE: EDNY DACA - Meet and confer; request for consent to file reply brief

Stephen and colleagues -- Thank you for the thorough meet and confer yesterday where we discussed the outstanding issues between the parties, including each paragraph of plaintiffs' proposed order. After further discussion, aside from

the Federal Register and EAD conversion issues, plaintiffs do not see any further ways to narrow the disputes between us based on your positions. If you have any updates regarding your clients' position on the conversion to two-year EADs and the Federal Register notice this morning before we file, please let us know. Thank you – Matthew

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**From:** Pezzi, Stephen (CIV) <[Stephen.Pezzi@usdoj.gov](mailto:Stephen.Pezzi@usdoj.gov)>

**Sent:** Thursday, December 3, 2020 9:43 PM

**To:** 'Muneer Ahmad' <[muneer.ahmad@ylsclinics.org](mailto:muneer.ahmad@ylsclinics.org)>

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**Subject:** RE: EDNY DACA - Meet and confer; request for consent to file reply brief

Counsel,

It was a pleasure speaking with you earlier this evening. We remain hopeful that we will be able to reach agreement on some of these remedial issues, or at least narrow the scope of any remaining disagreements as far as we can. To that end, we look forward to receiving your proposals on the subjects that we discussed (e.g., on the unlawful presence issue, and on any of the other issues for which there is some possibility of common ground). On our end, we will continue to do everything we can to get additional clarity from the agency, as quickly as we can, regarding the logistical pros and cons (to the agency and to the Plaintiffs) of the various options we have discussed regarding extending 1-year DACA/EADs to 2 years. We remain uncertain as to how much of this will be feasible before noon tomorrow, but we will do everything we can to move things along as fast as we can.

In the interim, if you have any additional questions or concerns, do not hesitate to reach out (including late tonight or early tomorrow morning, if necessary), either by email or at the number below (which is currently forwarding to my cell).

Best regards,

**Stephen M. Pezzi**

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**Subject:** RE: EDNY DACA - Meet and confer; request for consent to file reply brief

5 PM today works for us. Thanks.

**Stephen M. Pezzi**

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**From:** Muneer Ahmad <[muneer.ahmad@ylsclinics.org](mailto:muneer.ahmad@ylsclinics.org)>

**Sent:** Wednesday, December 02, 2020 7:45 PM

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**Subject:** Re: EDNY DACA - Meet and confer; request for consent to file reply brief

Stephen,

Could we plan to speak at 5:00 pm tomorrow? It would be most helpful if you could present a specific proposal for how the government would implement the 2-year conversion. Your papers suggested publication in the Federal Register as one option. We would appreciate learning if that is the government's proposal or if it has something else in mind.

We can use the following conference number:

203-432-9666

Meeting ID: 2034324716

Best,

Muneer

Muneer I. Ahmad

Sol Goldman Clinical Professor of Law

and Deputy Dean for Experiential Education

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**From:** "Pezzi, Stephen (CIV)" <[Stephen.Pezzi@usdoj.gov](mailto:Stephen.Pezzi@usdoj.gov)>  
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**Subject:** RE: EDNY DACA - Meet and confer; request for consent to file reply brief

Mr. Ahmad,

Thanks for your email. We remain interested in an effort to reach some common ground on these remedial issues. Tomorrow is a busy day, but we can speak at 4:15 PM, if that works for your side.

As for your forthcoming motion for leave to file a reply brief on Friday, Defendants do not oppose. Note that I am not sure whether we will be able to finalize any agreements before Friday -- but we can try.

I look forward to speaking with you tomorrow.

Best,

**Stephen M. Pezzi**

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**From:** Muneer Ahmad <[muneer.ahmad@ylsclinics.org](mailto:muneer.ahmad@ylsclinics.org)>  
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**To:** Pezzi, Stephen (CIV) <[spezzi@CIV.USDOJ.GOV](mailto:spezzi@CIV.USDOJ.GOV)>  
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**Subject:** EDNY DACA - Meet and confer; request for consent to file reply brief

Dear Stephen,

I am following up on Matthew's correspondence with you below to renew the State and *Batalla Vidal* Plaintiffs' willingness to meet and confer regarding the possibility of a stipulation to relief in the DACA cases. We believe that there may be some room for agreement, particularly with respect to the conversion of 1-year DACA and EADs to 2 years, and propose that the parties talk by phone tomorrow, December 3. Please let us know if you are amenable.

In addition, the Plaintiffs plan to seek leave from the Court to file a short reply brief, to be due by this Friday, December 4. Please let us know if the government consents to this request. We would appreciate your prompt response.

Best,  
Muneer

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**From:** "Colangelo, Matthew" <[Matthew.Colangelo@ag.ny.gov](mailto:Matthew.Colangelo@ag.ny.gov)>

**Date:** Monday, November 23, 2020 at 3:24 PM

**To:** "Pezzi, Stephen (CIV)" <[Stephen.Pezzi@usdoj.gov](mailto:Stephen.Pezzi@usdoj.gov)>, Karen Tumlin <[karen.tumlin@justiceactioncenter.org](mailto:karen.tumlin@justiceactioncenter.org)>

**Cc:** "Khan, Sania" <[Sania.Khan@ag.ny.gov](mailto:Sania.Khan@ag.ny.gov)>, Muneer Ahmad <[muneer.ahmad@ylsclinics.org](mailto:muneer.ahmad@ylsclinics.org)>, "Wardenski, Joseph" <[Joseph.Wardenski@ag.ny.gov](mailto:Joseph.Wardenski@ag.ny.gov)>, "Finkelstein, Alex" <[Alex.Finkelstein@ag.ny.gov](mailto:Alex.Finkelstein@ag.ny.gov)>, "Dasgupta, Anisha" <[Anisha.Dasgupta@ag.ny.gov](mailto:Anisha.Dasgupta@ag.ny.gov)>, "[batallavidal\\_Iso@mailman.yale.edu](mailto:batallavidal_Iso@mailman.yale.edu)" <[batallavidal\\_Iso@mailman.yale.edu](mailto:batallavidal_Iso@mailman.yale.edu)>, "Parker, Joshua" <[Joshua.Parker@ag.ny.gov](mailto:Joshua.Parker@ag.ny.gov)>, Jessica Young <[jessica.young@maketheroadny.org](mailto:jessica.young@maketheroadny.org)>, Mayra Joachin <[Joachin@nilc.org](mailto:Joachin@nilc.org)>, Araceli Martínez-Olguín <[martinez-olguin@nilc.org](mailto:martinez-olguin@nilc.org)>, Trudy Rebert <[rebert@nilc.org](mailto:rebert@nilc.org)>, "Thorp, Galen (CIV)" <[Galen.Thorp@usdoj.gov](mailto:Galen.Thorp@usdoj.gov)>, "Westmoreland, Rachael (CIV)" <[Rachael.Westmoreland@usdoj.gov](mailto:Rachael.Westmoreland@usdoj.gov)>, "Marutollo, Joseph (USANYE)" <[Joseph.Marutollo@usdoj.gov](mailto:Joseph.Marutollo@usdoj.gov)>, "Rosenberg, Brad (CIV)" <[Brad.Rosenberg@usdoj.gov](mailto:Brad.Rosenberg@usdoj.gov)>

**Subject:** RE: EDNY DACA - Local Rule 56.1 statement



Stephen -- thank you for the call and for this message. The NY and BV teams are both happy to discuss a negotiated resolution regarding relief under the APA, but at this point we think it would be most productive to get our motions on file and then discuss once you've had an opportunity to review the relief we're seeking and discuss it with your clients. If you'd like to schedule a time to discuss on Wednesday morning in the interest of resolving the remedial question by stipulation, let us know and we can be available at your convenience. Thanks -- Matthew.

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**From:** Pezzi, Stephen (CIV) <[Stephen.Pezzi@usdoj.gov](mailto:Stephen.Pezzi@usdoj.gov)>

**Sent:** Monday, November 23, 2020 10:16 AM

**To:** Colangelo, Matthew <[Matthew.Colangelo@ag.ny.gov](mailto:Matthew.Colangelo@ag.ny.gov)>; Karen Tumlin <[karen.tumlin@justiceactioncenter.org](mailto:karen.tumlin@justiceactioncenter.org)>

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**Subject:** RE: EDNY DACA - Local Rule 56.1 statement

Matthew,

Per our call, Defendants do not oppose that request for relief. As we also discussed, let me know if you think it would be worth having a broader conversation about the scope of relief that Plaintiffs intend to request.

Thanks,

**Stephen M. Pezzi**

Trial Attorney

United States Department of Justice

Civil Division - Federal Programs Branch

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Washington, DC 20005

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**From:** Colangelo, Matthew <[Matthew.Colangelo@ag.ny.gov](mailto:Matthew.Colangelo@ag.ny.gov)>

**Sent:** Sunday, November 22, 2020 7:42 PM

**To:** Pezzi, Stephen (CIV) <[spezzi@CIV.USDOJ.GOV](mailto:spezzi@CIV.USDOJ.GOV)>; Karen Tumlin <[karen.tumlin@justiceactioncenter.org](mailto:karen.tumlin@justiceactioncenter.org)>

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**Subject:** EDNY DACA - Local Rule 56.1 statement

Counsel – the plaintiffs intend to file a joint request with Judge Garaufis tomorrow morning seeking leave to forgo the Local Civil Rule 56.1 statement in connection with our forthcoming motion for partial summary judgment, given that we are proceeding on the APA claim only. Please let us know if we may state that Defendants do not oppose this request. Thanks – Matthew